

*Sample Tutorial Syllabus, Santa Clara University School of Law
Summer Program at Oxford University (2018)*

INTERNATIONAL REFUGEE LAW (SAMPLE SYLLABUS, 2017)

Dr Reuven (Ruvi) Ziegler

This tutorial explores the area of public international law that regulates an exception to the principles of state sovereignty and migration control. It offers a critical understanding of the international regime of refugee protection by highlighting its virtues and shortcomings.

STRUCTURE

- 1) A global refugee protection framework
- 2) The 1951 Convention Refugee Definition and Refugee Status Determination
- 3) Cessation of (1951 Convention) refugee status and the Refugee (Political) Predicament
- 4) *Non-refoulement* and interdiction at sea
- 5) Detention and Encampment

YOUR TUTOR



Dr Reuven (Ruvi) Ziegler is an Associate Professor in International Refugee Law at the University of Reading, School of Law, where he is Director of the Global LLM programmes in Human Rights, International Law, and Advanced Legal Studies. Ruvi is an Academic Fellow of the Honourable Society of the Inner Temple; Convenor of the 'Civil Liberties and Human Rights' Section of the Society of Legal Scholars; Editor-in-Chief of the Refugee Law Initiative (Institute for Advance Legal Study, University of London) Working Paper Series; and a Researcher at the Israel Democracy Institute, analysing the treatment of asylum seekers in Israel as part of the Democratic Principles project. Previously, Ruvi was a visiting researcher at Harvard Law School's Immigration and Refugee Clinic and with the Human Rights Program; and a Tutor in Public International Law at Oxford. Ruvi's recently published book is 'Voting Rights of Refugees' (Cambridge University Press, 2017). Ruvi's areas of research interest include International Refugee Law, Citizenship & Electoral Rights, Comparative Constitutional Law, and International Humanitarian Law. Ruvi holds DPhil, MPhil, and BCL degrees from the University of Oxford; LL.M. with specialisation in Public Law from Hebrew University; and a joint LLB and BA from the University of Haifa. He was called to the Israeli bar in 2003.

USEFUL WEBSITES AND BLOGS

- [European Council on Refugees and Exiles](#)
- [Fahamu blog](#)
- [Forced migration blog](#)
- [Free movement blog](#)
- [Hotline for refugees and migrants](#)
- [The Michigan-Melbourne refugee case-law](#)
- [Refugee Law Reader](#)
- [UNHCR](#)
- [UNHCR Refworld](#)

TUTORIAL ONE

A GLOBAL REFUGEE PROTECTION FRAMEWORK

ASSIGNMENT

Watch Professor Guy S. Goodwin-Gill's lecture 'Forced migration – the evolution of international refugee law and organisation' (UN audiovisual library: http://legal.un.org/avl/ls/Goodwin-Gill_IML_video_2.html). Write two 500-700 word comments addressing two contemporary shortcomings of the global refugee law treaty regime, paying particular attention to the tension between the protection obligations of states and national sovereignty.

TREATIES

- [Convention Relating to the Status of Refugees](#) (especially preamble)
- [Charter of the United Nations](#), San Francisco, 26 June 1945 (especially Articles 1, 2)
- [Declaration on Territorial Asylum](#)
- [Final Act of the UN Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons](#) (25 July 1951)
- [GA Res. 8\(I\) of 12 February 1946](#) (Question of Refugees)
- [GA Res. 62\(I\) of 15 December 1946](#) (Refugees and Displaced Persons)
- [GA Res. 428 \(V\) of 14 December 1950](#) (Statute of the UNHCR)
- [Protocol Relating to the Status of Refugees](#)
- [Universal Declaration of Human Rights](#), Paris, 10 December 1948, Article 14

LITERATURE

- Guy S. Goodwin-Gill and Jane McAdam, [The Refugee in International Law](#) (3rd edn OUP 2007) Chapter 1*
- Guy S. Goodwin-Gill, [‘A Convention and a Purpose’](#) (2001) 13 International Journal of Refugee Law 1-15*
- Guy S. Goodwin-Gill, [The Dynamic of International Refugee Law](#) (2013) 25(4) International Journal of Refugee Law 651-666
- Guy S. Goodwin-Gill, [The Politics of Refugee Protection](#) (2008) 27(1) Refugee Survey Quarterly 8-23
- James Hathaway, [The Evolution of Refugee Status in International Law: 1920-1950](#) (1984) 33(2) International and Comparative Law Quarterly 348-80
- Walter Kalin, [‘Supervising the 1951 Convention relating to the Status of Refugees: Article 35 and Beyond’](#) in Erika Feller, Volker Türk and Frances Nicholson (eds), *Refugee Protection in International Law* (CUP 2003) 613-666
- Jane McAdam, [Rethinking the Origin of ‘Persecution’ in Refugee Law](#) (2013) 25(4) International Journal of Refugee Law 667-692
- Nehemia Robinson, [Convention Relating to the Status of Refugees: Its History, Contents and Interpretation](#) (Institute of Jewish Affairs, 1955)
- [Summary Conclusions, Roundtable on the Future of Refugee Convention Supervision](#) (Cambridge, UK, 28-29 September 2012)
- Volker Türk and Frances Nicholson, [‘Refugee protection in international law: an overall Perspective’](#) in Erika Feller, Volker Türk and Frances Nicholson (eds), *Refugee Protection in International Law* (Cambridge University Press, 2003) 3-45*
- Paul Weis, [‘The International Protection of Refugees’](#) (1954) 48 American Journal of International Law 193-221

TUTORIAL TWO

THE 1951 CONVENTION REFUGEE DEFINITION AND REFUGEE STATUS DETERMINATION

ASSIGNMENT

Which interpretive limits, if any, should apply to ‘membership of a particular social group’? Consider developments and challenges posed by gender and sexual orientation.

TREATIES

- [Convention Relating to the Status of Refugees](#), Article 1A(2)*
- [Vienna Convention on the Law of Treaties](#), Articles 26, 31*

CASES

- [R v. Secretary of State for the Home Department, Ex parte Adan](#) [UK] (19 December 2000)*
- [Canada \(Attorney General\) v. Ward](#) [Canada] (30 June 1993)*
- [Fornah v. Secretary of State for the Home Department](#) [UK] (18 October 2006)
- [Horvath v. Secretary of State for the Home Department](#) [UK] (6 July 2000)
- [HJ \(Iran\) and HT \(Cameroon\) v. SSHD](#) [2010] UKSC 31 [UK]*
- [Islam v. SSHD; R v. Immigration Appeal Tribunal, Ex Parte Shah](#) [UK] (25 March 1999)
- [Minister for Immigration and Multicultural Affairs v. Khawar](#) [Australia] (11 April 2002)
- [RT \(Zimbabwe\) and others v. Secretary of State for the Home Department](#) [UK] (25 July 2012)

LITERATURE

- T Alexander Aleinikoff, [‘Protected characteristics and social perceptions: an analysis of the meaning of “membership of a particular social group”’](#) in Erika Feller, Volker Türk and Frances Nicholson (eds), *Refugee Protection in International Law* (CUP, 2003) 263-311
- Deborah E. Anker, [‘Refugee Law, Gender, and the Human Rights Paradigm’](#) (2002) 15 Harvard Human Rights Journal 133
- Guy S Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (3rd edn Oxford University Press, 2007) Chapters 2-4*
- James C. Hathaway and William S. Hicks, [‘Is There a Subjective Element in the Refugee Convention’s Requirement of Well-Founded Fear?’](#) (2005) 26 Michigan Journal of International Law 510*
- James C. Hathaway and Hugo Storey, [‘What is the meaning of state protection? A debate’](#) (2016) 28(3) International Journal of Refugee Law 480-492*
- Daniel J. Steinbock, [‘Interpreting the Refugee Definition’](#) (1998) 45 UCLA Law Review 733
- UNHCR, [Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A\(2\) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees](#), (May 2002)
- UNHCR, [Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the Context of Article 1A\(2\) of the 1951 Convention and/or its 1967 Protocol relating to the status of Refugees](#) (October 2012)*
- UNHCR, [Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees](#) (December 2011)

TUTORIAL THREE

CESSATION OF (1951 CONVENTION) REFUGEE STATUS AND THE REFUGEE (POLITICAL) PREDICAMENT

ASSIGNMENT

Critically appraise the question of cessation under international refugee law. Consider the case of returns to Iraq after the 2003 war (*Abdulla*, in the readings)

TREATIES

- [Convention Relating to the Status of Refugees](#) Articles 1C, 2-32, 34*
- [International Covenant on Civil and Political Rights](#), Articles 2(1), 25*

CASES

- [C-175/08 and others Salahadin Abdulla and Others v. Bundesrepublik Deutschland](#) [CJEU] (2 March 2010)*
- [R \(ST \(Eritrea\)\) v. Secretary of State for the Home Department](#) [Supreme Court, United Kingdom] (21 March 2012)

LITERATURE

- Joan Fitzpatrick & Rafael Bonoan, '[Cessation of Refugee Protection](#)' in Erika Feller, Volker Türk and Frances Nicholson (eds), *Refugee Protection in International Law* (CUP 2003) 491-544
- Vincent Chetail, '[Are Refugee Rights Human Rights? An Unorthodox Questioning of the Relations between Refugee Law and Human Rights Law](#)' in Ruth Rubio-Marín (ed), *Human Rights and Immigration* (OUP, 2014) chapter 2*
- Antonio Fortin, '[The Meaning of Protection in the Refugee Definition](#)' (2001) 12 *International Journal of Refugee Law* 548-76
- Guy S Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (3rd edn OUP 2007) 285-324, 489-499*
- James Hathaway, *The Rights of Refugees under International Law* (CUP 2005) 154-191, 913-990
- Marina Sharpe, '[The 1951 Refugee Convention's Contingent Rights Framework and Article 26 of the ICCPR: A Fundamental Incompatibility?](#)' (2014) 30(2) *Refugee* 5-13*
- Reuven (Ruvi) Ziegler, '[Protecting Recognised Geneva Convention Refugees outside their Countries of Asylum](#)' 25(2) *International Journal of Refugee Law* 235-264*
- Reuven (Ruvi) Ziegler, '[Out-of-Country Voting: The Predicament of the Recognised Refugee](#)' in Jean-Pierre Gauci, Mariagiulia Giuffré, and Lilian Tsourdi (eds), *Forced Migration(s): Critical Reflections on Refugee Law* (Brill, 2015) 296-318*
- Reuven (Ruvi) Ziegler, [Voting Rights of Refugees](#) (CUP 2017) chapter 8
- UNHCR, [Guidelines on International Protection: Cessation of Refugee Status under Article 1C\(5\) and \(6\) of the 1951 Convention relating to the Status of Refugees](#) (10 February 2003)*

TUTORIAL FOUR

NON-REFOULEMENT AND INTERDICTION AT SEA

ASSIGNMENT

Imagine you are a judge of a (fictional) ‘world refugee court’, asked to adjudicate the compatibility of the EU-Turkey Statement with international refugee law: please write a summary judgment.

TREATIES

- [Convention Relating to the Status of Refugees](#), Article 33(1-2)*
- [Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on Common Procedures for Granting and Withdrawing International Protection \(Recast\)](#) Art 3, 38*
- [EU-Turkey Statement](#) (18 March 2016)*

CASES

- [Haitian Centre for Human Rights et al. v. United States](#) [IIACCommHR] (13 Mar 1997) [155-8]
- [Hirsi Jamaa and Others v. Italy](#) [ECtHR] (23 February 2012) [22-23] and concurring opinion (Pinto de Albuquerque J) + [UNHCR, Submission](#)
- HCJ 7302/07 [Hotline for Migrant Workers v. Minister of Defense](#) [Israel] (7 July 2011)
- [MSS v. Belgium and Greece](#) [ECtHR] (21 January 2011) [286]
- [R v. Immigration Officer at Prague Airport and Another, Ex parte European Roma Rights Centre and Others](#) [UK] (9 December 2004) [43], [65-71]
- [Sale v. Haitian Centers Council, Inc., et al](#) [U.S.] (21 June 1993) opinion section on Article 33 (unnumbered paragraphs) and dissent (Blackmun J) in full

LITERATURE

- Alice Edwards, [‘Human Rights, Refugees and the Right to ‘Enjoy’ Asylum’](#) (2005) 17(2) International Journal of Refugee Law 293-330*
- Michelle Foster, [Protection Elsewhere: The Legal Implications of Requiring Refugees to Seek Protection in Another State](#) (2007) 28(2) Michigan Journal of International Law 223-286
- Guy S Goodwin-Gill, [‘Non-Refoulement and the New Asylum Seekers’](#) (1985-1986) 26 Virginia Journal of International Law 897-918
- Guy S Goodwin-Gill, [‘The Right to Seek Asylum: Interception at Sea and the Principle of Non-refoulement’](#) (2011) 23(3) International Journal of Refugee Law 443-457*
- Jane McAdam, [Australia and Asylum Seekers](#) (2013) 25(3) International Journal of Refugee Law 435-448
- Violeta Moreno-Lax, [‘Hirsi Jamaa and Others v. Italy or the Strasbourg Court versus Extraterritorial Migration Control?’](#) 12(3) Human Rights Law Review 574-598*
- Cynthia Orchard and Andrew Miller, [Protection in Europe for Refugees from Syria](#) (Forced Migration Policy Briefing 10, RSC, 2014)
- [Yale Law School Symposium](#) on the *Sale* judgment (the hyperlink will take you to a contribution by Harold Koh; please note that there are 12 other contributions, all hyperlinked at the bottom of the page.*

TUTORIAL FIVE

DETENTION AND ENCAMPMENT

ASSIGNMENT

Is encampment and/or detention compatible with the refugee and human rights law obligations of asylum states? Consider the judgment of the High Court of Kenya and the position of UNHCR (in the readings).

TREATIES/LEGISLATION

- [Convention Relating to the Status of Refugees](#), Articles 26, 31*
- [International Covenant on Civil and Political Rights](#), Articles 9, 12
- [Law for the Prevention of Infiltration \(offences and judging\) 1954](#) ([translation*](#))
- [Law for the Prevention of Infiltration \(offences and judging\) \(amend. no 3\) 2012](#) ([translation*](#))
- [Law for the Prevention of Infiltration \(offences and judging\) \(amend. no 4\) 2013](#) ([translation*](#))
- [Law for the Prevention of Infiltration and for Ensuring the Departure of Infiltrators from Israel \(legislative and temporary provisions\) 2014](#) ([translation](#))
- [EU Council Directive on Minimum Standards for the Reception of Asylum Seekers](#)
- [Procedure for Handling Political Asylum Seekers in Israel](#) (2011)

CASES

- HCJ 7146/12 [Adam et al v. Knesset et al](#) [Israel] (16 Sept 2013) [70-115] ([summary](#)) ([case analysis*](#))
- HCJ 8425/13 [Gebreselassie v. GoI et al](#) [Israel] (22 Sept 2014) ([summary](#)) ([case analysis*](#))
- HCJ 8665/14 [Desete v. Minister of the Interior](#) [Israel] (9 Aug 2015) ([summary](#))([case analysis*](#))
- [‘Petition No. 19 of 2013’](#) (*Kituo Cha Sheria and others v The Attorney General*) Kenya: High Court (26 July 2013) [29-60] and 66-69]

LITERATURE

- Yonatan (Jonathan) Berman and Reuven (Ruvi) Ziegler, [‘The Union of Securitization and Demography’](#) in Amy Nethery and Stephanie J. Silverman (eds), *Immigration Detention: The Global Journey of a Policy and its Human Impact* (Routledge, 2015) 154-162; and [Introduction](#)
- Guy S. Goodwin-Gill, [‘Article 31: Non-penalization, Detention, and Protection’](#) in Erika Feller, Volker Türk, Frances Nicholson (eds), *Refugee Protection in International Law: UNHCR's Global Consultations on International Protection* (CUP 2003) 185-252*
- HRC, [General Comment No.27: Freedom of Movement \(Article 12\)](#) (2 November 1999)
- HRC, [General Comment No.35: Liberty and Security of person \(Article 9\)](#) (28 October 2014)
- Michael Kagan, [Limiting Deterrence: Judicial Resistance to Detention of Asylum-Seekers in Israel and the United States](#) (2015) 51 Texas International Law Journal
- Gregor Noll, [‘Article 31: Refugees unlawfully in the Country of Refuge’](#) in Andreas Zimmermann et al (eds), *The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol: A Commentary* (OUP 2011) 1242-1275*

- UNHCR, [*Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum Seekers and Alternatives to Detention*](#) (21 September 2012)
- Reuven (Ruvi) Ziegler, ['No Asylum for "Infiltrators": The Predicament of Eritreans and Sudanese Nationals in Israel'](#) (2015) 29(2) *Journal of Immigration, Asylum and Nationality Law* 172-191*